

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 103**

Introduced by Adams, 24.

Read first time January 09, 2009

Committee: Education

A BILL

1 FOR AN ACT relating to postsecondary educational institutions;  
2 to amend sections 85-408 and 85-1402, Reissue Revised  
3 Statutes of Nebraska; to change provisions relating  
4 to capital and facility expenditures; to harmonize  
5 provisions; and to repeal the original sections.  
6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 85-408, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           85-408 The boards are authorized and directed to  
4 establish and maintain such schedule of rates, fees, or charges for  
5 the use of the facilities afforded by the buildings constructed  
6 or acquired under sections 85-401 to 85-411 and other facilities  
7 controlled by such board, the revenue of which in whole or in  
8 part is pledged to the holder of the bonds, which shall be in  
9 an amount at least sufficient on the amortization plan to pay  
10 the operating and maintenance charges thereof and the principal  
11 and interest representing the indebtedness against the income and  
12 revenue therefrom and may be sufficient in amount to provide  
13 for such bond reserve, replacement, and surplus funds as the  
14 boards in their discretion shall determine. The amounts in such  
15 funds shall be expended for such purposes in connection with the  
16 facilities as the boards shall determine, and any amount in any  
17 surplus or replacement fund and any amounts received through the  
18 sale, condemnation, or destruction of any facilities may be used  
19 to construct, repair, or replace any of the types of facilities  
20 described in section 85-403. Any amounts in such funds are  
21 specifically appropriated to the purposes of such funds and shall  
22 at all times be subject to the orders of the boards accordingly.

23           Before any single expenditure in excess of ~~five hundred~~  
24 ~~thousand~~ one million dollars is made from any such surplus  
25 or replacement fund, the board concerned shall first submit

1 such proposed expenditure to the Coordinating Commission for  
2 Postsecondary Education for review as provided in section 85-1415  
3 and secure the approval of the Legislature or, if the Legislature  
4 is not in session, of the Executive Board of the Legislative  
5 Council as provided in such section.

6           Sec. 2. Section 85-1402, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           85-1402 For purposes of the Coordinating Commission for  
9 Postsecondary Education Act:

10           (1)(a) Capital construction project shall mean a project  
11 which utilizes tax funds designated by the Legislature and shall  
12 be: Any proposed new capital structure; any proposed addition  
13 to, renovation of, or remodeling of a capital structure; any  
14 proposed acquisition of a capital structure by gift, purchase,  
15 lease-purchase, or other means of construction or acquisition that  
16 (i) will be directly financed in whole or in part with tax funds  
17 designated by the Legislature totaling at least the minimum capital  
18 expenditure for purposes of this subdivision or (ii) is likely,  
19 as determined by the institution, to result in an incremental  
20 increase in appropriation or expenditure of tax funds designated  
21 by the Legislature of at least the minimum capital expenditure for  
22 the facility's operations and maintenance costs in any one fiscal  
23 year within a period of ten years from the date of substantial  
24 completion or acquisition of the project. No tax funds designated  
25 by the Legislature shall be appropriated or expended for any

1 incremental increase of more than the minimum capital expenditure  
2 for the costs of the operations and utilities of any facility  
3 which is not included in the definition of capital construction  
4 project and thus is not subject to commission approval pursuant  
5 to the Coordinating Commission for Postsecondary Education Act. No  
6 institution shall include a request for funding such an increase  
7 in its budget request for tax funds designated by the Legislature  
8 nor shall any institution utilize any such funds for such an  
9 increase. The Governor shall not include in his or her budget  
10 recommendations, and the Legislature shall not appropriate, such  
11 funds for such increase.

12 (b) For purposes of this subdivision:

13 (i) Directly financed shall mean funded by:

14 (A) Appropriation of tax funds designated by the  
15 Legislature for the specific capital construction project;

16 (B) Property tax levies used to establish a capital  
17 improvement and bond sinking fund pursuant to section 85-1515; or

18 (C) That portion of tax funds designated by the  
19 Legislature and appropriated by the Legislature for the general  
20 operation of the public institution and utilized to fund the  
21 capital project;

22 (ii) Incremental increase shall mean an increase in  
23 appropriation or expenditure of tax funds designated by the  
24 Legislature of at least the minimum capital expenditure for a  
25 facility's operations and maintenance costs, beyond any increase

1 due to inflation, to pay for a capital structure's operations  
2 and maintenance costs that are a direct result of a capital  
3 construction project; and

4 (iii) Minimum capital expenditure shall mean:

5 (A) For purposes of subdivision (a)(i) of this  
6 subdivision, a base amount of ~~five hundred thousand~~ two million  
7 dollars; and

8 (B) For the facility's operations and maintenance costs  
9 pursuant to subdivision (a)(ii) of this subdivision, a base amount  
10 of ~~seventy-five~~ eighty-five thousand dollars for any one fiscal  
11 year.

12 ~~Both base amounts~~ The facility's operations and  
13 maintenance costs shall be subject to any inflationary or market  
14 adjustments made by the commission pursuant to this subdivision.  
15 The commission shall adjust the base amounts on a biennial basis  
16 beginning January 1, 2008. The adjustments shall be based on  
17 percentage changes in a construction cost index and any other  
18 published index relevant to operations and utilities costs, both  
19 as selected by the commission in cooperation with the public  
20 institutions. The index or indices shall reflect inflationary or  
21 market trends for the applicable operations and maintenance or  
22 construction costs;

23 (2) Commission shall mean the Coordinating Commission for  
24 Postsecondary Education;

25 (3) Coordination shall mean:

1           (a) Authority to adopt, and revise as needed, a  
2 comprehensive statewide plan for postsecondary education which  
3 shall include (i) definitions of the role and mission of each  
4 public postsecondary educational institution within any general  
5 assignments of role and mission as may be prescribed by the  
6 Legislature and (ii) plans for facilities which utilize tax funds  
7 designated by the Legislature;

8           (b) Authority to review, monitor, and approve or  
9 disapprove each public postsecondary educational institution's  
10 programs and capital construction projects which utilize tax funds  
11 designated by the Legislature in order to provide compliance and  
12 consistency with the comprehensive plan and to prevent unnecessary  
13 duplication; and

14           (c) Authority to review and modify, if needed to promote  
15 compliance and consistency with the comprehensive statewide plan  
16 and prevent unnecessary duplication, the budget requests of the  
17 governing boards or any other governing board for any other public  
18 postsecondary educational institution which may be established by  
19 the Legislature;

20           (4) Education center shall mean an off-campus branch of  
21 a public institution or cooperative of either public or public  
22 and private postsecondary educational institutions which offers  
23 instructional programs to students;

24           (5) Governing board shall mean the Board of Regents of  
25 the University of Nebraska, the Board of Trustees of the Nebraska

1 State Colleges, or the board of governors for each community  
2 college area;

3 (6) Program shall mean any program of instruction which  
4 leads directly to a degree, diploma, or certificate and, for  
5 purposes of section 85-1414, shall include public service programs  
6 and all off-campus instructional programs, whether or not such  
7 programs lead directly to a degree, diploma, or certificate.  
8 Program shall also include the establishment of any new college,  
9 school, major division, education center, or institute but  
10 shall not include reasonable and moderate extensions of existing  
11 curricula which have a direct relationship to existing programs;

12 (7) Public institution shall mean each campus of a  
13 public postsecondary educational institution which is or may be  
14 established by the Legislature, which is under the direction of a  
15 governing board, and which is administered as a separate unit by  
16 the board; and

17 (8) Tax funds designated by the Legislature shall mean  
18 all state tax revenue and all property tax revenue.

19 Sec. 3. Original sections 85-408 and 85-1402, Reissue  
20 Revised Statutes of Nebraska, are repealed.